

Ways and Means
Craft, Chairperson
Readinger
Rush

*1/8 Amend per S-3260
On 3/26/81 (p. 945)*

HOUSE FILE 734

BY COMMITTEE ON STATE GOVERNMENT

MAR 9 1981

(Formerly Study Bill 12)

Place On Calendar

Passed House, Date 3-12-81 (p. 763) Passed Senate, Date 11-30-81 (p. 1501)

Vote: Ayes 90 Nays 4 Vote: Ayes 44 Nays 2

Approved June 13, 1981

A BILL FOR

1 An Act establishing the rate of interest payable on delinquent
2 taxes owed to the state.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4 *Conference Committee appointed*
5 *Representatives Schackloth, (Chair), Conlon, Pitsema, Brandt, Dickman (p. 1917)*
6 *Senators Craft (Chair), Hester, Readinger, Rodgers, Van Gilders (p. 1750)*

7
8 *Passed per Conference Committee Report*
9 *Senate 5-21-81 (p. 1799) House 5-21-81 (p. 2126)*
10 *42-1 96-3*

734

HOUSE FILE 734

S-3260

1 Amend House File 734 as follows:

2 1. Page 1, by striking line 3 through page 2,
3 line 2, and inserting in lieu thereof the following:

4 "NEW SECTION. INTEREST RATE. Except where a
5 different rate of interest is stated in a provision
6 of this title, the rate of interest on interest-bearing
7 obligations arising under this title shall be one
8 percent per month."

S-3260 FILED

MARCH 26, 1981

Adopted 4/30/81 (p. 1507)

BY COMMITTEE ON WAYS & MEANS
ROLF V. CRAFT, CHAIR

1 Section 1. Chapter 421, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. INTEREST RATE.

4 1. Except where a different rate of interest is stated
5 in a provision of this title, the rate of interest on interest-
6 bearing obligations arising under this title shall be the
7 rate of interest in effect under this section.

8 2. The rate of interest that shall be in effect during
9 a calendar year shall be the rate which is two percentage
10 points less than the numerical average, rounded to the nearest
11 one-tenth of one percent, of the respective prime rates for
12 each of the months in the twelve-month period that ends
13 September 30 of the previous calendar year. The rate of
14 interest established by this subsection takes effect January
15 1, and applies to any amount which is due or becomes payable
16 on or after that date.

17 3. Notwithstanding contrary provisions of subsection 2,
18 the rate of interest that is in effect during a calendar year
19 shall also be the rate of interest to be in effect for the
20 following calendar year, unless the rate of interest as
21 calculated under subsection 2 is at least one percentage point
22 higher or lower than the rate then in effect.

23 4. In the event interest accrues or is calculated on a
24 monthly basis, the rate of interest for each month shall be
25 one-twelfth, rounded to the nearest one-tenth of one percent,
26 of the rate specified in subsection 2.

27 5. As used in subsection 3, the term "prime rate" means
28 the prime rate charged by banks on short-term business loans,
29 as determined by the board of governors of the federal reserve
30 system and published in the federal reserve bulletin.

31 6. In October of each year the director shall cause an
32 advisory notice to be published in the Iowa administrative
33 bulletin and in a newspaper of general circulation in this
34 state, stating the rate of interest to be in effect on or
35 after January 1 of the following year, as established by this

1 section. The calculation and publication of the rate of
2 interest by the director is exempt from chapter 17A.

3 Sec. 2. Section 324.64, Code 1981, is amended by adding
4 the following new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. The director may, on his or
6 her own motion at any time, abate any portion of tax, interest
7 or penalties which is determined to be excessive in amount
8 or erroneously or illegally assessed.

9 Sec. 3. Section 324.65, Code 1981, is amended to read
10 as follows:

11 324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL
12 TAXES. If a licensee or other person fails to file a required
13 report with the appropriate state agency on or before the
14 due date, unless it is shown that the failure was due to
15 reasonable cause there shall be added to the amount required
16 to be shown as tax due on the return five percent of the
17 amount of the tax if the failure is for not more than one
18 month, with an additional five percent for each additional
19 month or fraction of a month during which the failure
20 continues, not exceeding twenty-five percent in the aggregate.
21 If a licensee or other person fails to remit the tax due with
22 the filing of the return on or before the due date or fails
23 to pay any amount of the tax required to be shown on the
24 return, unless it is shown that the failure was due to
25 reasonable cause, there shall be added to the tax a penalty
26 of five percent of the amount of the tax due, if the failure
27 is for not more than one month, with an additional five percent
28 for each additional month or fraction of a month during which
29 the failure continues, not exceeding twenty-five percent in
30 the aggregate. The taxpayer shall also pay interest on the
31 tax or additional tax at the rate ~~of three-fourths of one~~
32 ~~percent per month~~ in effect under section 1 of this Act
33 counting each fraction of a month as an entire month, computed
34 from the date the return was required to be filed. The
35 appropriate state agency shall not remit any part of a penalty

1 for delinquent payment where the delinquency results from
2 the fact that a check given in payment is not honored because
3 of insufficient funds in the account upon which the check
4 was drawn. However, if it appears as a result of an
5 investigation or from a preponderance of the evidence adduced
6 at a hearing that there has been a deliberate attempt on the
7 part of a licensee or other person to evade payment of fuel
8 taxes there shall be added to the assessment against the
9 offending person and collected a penalty of fifty percent
10 of the tax due. When penalties are applicable for failure
11 to file a return and failure to pay the tax due or required
12 on the return, the penalty provision for failure to file shall
13 be in lieu of the penalty for failure to pay the tax due or
14 required on the return, except in the case of a deliberate
15 attempt on the part of the licensee or other person to evade
16 payment of fuel taxes. Any report required of licensees or
17 persons operating under divisions I, II and III, upon which
18 no tax may be due, shall be subject to a penalty of ten dollars
19 if the report is not timely filed with the appropriate state
20 agency.

21 Sec. 4. Section 422.16, subsection 9, Code 1981, is amended
22 to read as follows:

23 9. The amount of any overpayment of the individual income
24 tax liability of the employee taxpayer, nonresident, or other
25 person which may result from the withholding and payment of
26 withheld tax by the employer or withholding agent to the
27 department under subsections 1 and 12 hereof, as compared
28 to the individual income tax liability of the employee
29 taxpayer, nonresident, or other person properly and correctly
30 determined under the provisions of section 422.4, to and
31 including section 422.25, may be credited against any income
32 tax or installment thereof then due the state of Iowa and
33 any balance of one dollar or more shall be refunded to the
34 employee taxpayer, nonresident or other person with interest
35 at the rate ~~of three-fourths of one percent per~~ in effect

1 under section 1 of this Act for each month or fraction of
2 a month, ~~such~~ the interest to begin to accrue thirty days
3 after the date the return was due to be filed or was filed,
4 whichever is the later date. Amounts less than one dollar
5 shall be refunded to the taxpayer, nonresident, or other
6 person only upon written application, in accordance with
7 section 422.73, and only if such the application is filed
8 within twelve months after the due date of the return. Refunds
9 in the amount of one dollar or more provided for by this
10 subsection shall be paid by the treasurer of state by means
11 of warrants drawn by the comptroller at the direction of the
12 director, or an authorized employee of the department, and
13 the taxpayer's return of income shall constitute a claim for
14 refund for this purpose, except in respect to amounts of less
15 than one dollar. There is hereby appropriated, out of any
16 funds in the state treasury not otherwise appropriated, a
17 sum sufficient to carry out the provisions of this subsection.

18 Sec. 5. Section 422.16, subsection 10, paragraph b, Code
19 1981, is amended to read as follows:

20 b. Any employer or withholding agent required under ~~the~~
21 ~~provisions of~~ this chapter to withhold taxes on wages or other
22 taxable Iowa income subject to this chapter who fails to file
23 a return for the withholding of tax with the department of
24 revenue on or before the due date, unless it is shown that
25 the failure was due to reasonable cause, ~~shall-be~~ is subject
26 to a penalty determined by adding to the amount required to
27 be shown as tax due on the return five percent of the amount
28 of the tax if the failure is for not more than one month,
29 with an additional five percent for each additional month
30 or fraction of a month during which the failure continues,
31 not exceeding twenty-five percent in the aggregate. If any
32 person or withholding agent fails to remit the tax due with
33 the filing of the return on or before the due date, or fails
34 to pay any amount of any tax required to be shown on the
35 return, unless it is shown that the failure was due to

1 reasonable cause, there shall be added to the tax a penalty
2 of five percent of the amount of the tax due, if the failure
3 is for not more than one month, with an additional five percent
4 for each additional month or fraction of a month during which
5 the failure continues, not exceeding twenty-five percent in
6 the aggregate. When penalties are applicable for failure
7 to file a return and failure to pay the tax due or required
8 on the return, the penalty provision for failure to file shall
9 ~~be~~ is in lieu of the penalty provision for failure to pay
10 the tax due or required on the return. The taxpayer shall
11 also pay interest on the tax or additional tax at the rate
12 ~~of three-fourths of one percent per~~ in effect under section
13 1 of this Act for each month counting each fraction of a month
14 as an entire month, computed from the date the return was
15 required to be filed. The penalty and interest shall become
16 a part of the tax due from the withholding agent.

17 Sec. 6. Section 422.16, subsection 11, paragraph e, Code
18 1981, is amended to read as follows:

19 e. Any amount of tax paid on a declaration of estimated
20 tax shall be a credit against the amount of tax found payable
21 on a final, completed return, as provided in subsection 9
22 ~~hereof~~, relating to the credit for the tax withheld against
23 the tax found payable on a return properly and correctly
24 prepared under the provisions of section 422.5, to and
25 including section 422.25, and any overpayment of one dollar
26 or more shall be refunded to the taxpayer and ~~such~~ the return
27 shall constitute a claim for refund for this purpose. Amounts
28 less than one dollar shall be refunded to the taxpayer only
29 upon written application in accordance with section 422.74,
30 but only if ~~such~~ the application is filed within twelve months
31 after the due date for the return. The method provided by
32 the Internal Revenue Code of 1954 for determining what shall
33 ~~be~~ is applicable to the addition to tax for underpayment of
34 the tax payable ~~shall-apply~~ applies to persons required to
35 file declarations and make payments of estimated tax under

1 ~~the-provisions-of~~ this section except the amount to be added
2 to the tax for underpayment of estimated tax shall be an
3 amount determined at the rate ~~of-three-fourths-of-one-percent~~
4 per-month in effect under section 1 of this Act. This addition
5 to tax specified for underpayment of the tax payable shall
6 is not be subject to waiver provisions relating to reasonable
7 cause. Underpayment of estimated tax shall be determined
8 in the same manner as provided under ~~the-provisions-of~~ the
9 Internal Revenue Code of 1954 and the exceptions therein
10 ~~provided-shall~~ also apply.

11 Sec. 7. Section 422.24, subsection 2, Code 1981, is amended
12 to read as follows:

13 2. When, at the request of the taxpayer, the time for
14 filing the return is extended, interest at the rate ~~of-three-~~
15 fourths-of-one-percent-per in effect under section 1 of this
16 Act for each month counting each fraction of a month as an
17 entire month, on the total tax due, from the time when the
18 return was required to be filed to the time of payment, shall
19 be added and paid.

20 Sec. 8. Section 422.25, subsections 2 and 3, Code 1981,
21 are amended to read as follows:

22 2. In addition to the tax or additional tax as determined
23 by the department under ~~the-provisions-of~~ subsection 1 of
24 ~~this-section~~, the taxpayer shall pay interest on the tax or
25 additional tax at the rate ~~of-three-fourths-of-one-percent~~
26 per in effect under section 1 of this Act for each month
27 counting each fraction of a month as an entire month, computed
28 from the date the return was required to be filed. In case
29 of failure to file a return with the department on or before
30 the due date (determined with regard to any extension of time
31 for filing), unless it is shown that the failure was due to
32 reasonable cause and not due to willful neglect, there shall
33 be added to the amount required to be shown as tax on the
34 return five percent of the amount of the tax if the failure
35 is for not more than one month, with an additional five percent

1 for each additional month or fraction thereof during which
2 the failure continues, not exceeding twenty-five percent in
3 the aggregate. If any person fails to remit the tax due with
4 the filing of the return on or before the due date, or fails
5 to pay any amount of any tax required to be shown on the
6 return, unless it is shown that the failure was due to
7 reasonable cause, there shall be added to the tax a penalty
8 of five percent of the tax due, if the failure is for not
9 more than one month, with an additional five percent for each
10 additional month or fraction of a month during which the
11 failure continues, not exceeding twenty-five percent in the
12 aggregate. In case of willful failure to file a return with
13 intent to evade tax, or in case of willfully filing a false
14 return with intent to evade tax, in lieu of the penalty above
15 otherwise provided in this subsection, there shall be added
16 to the amount required to be shown as tax on the return fifty
17 percent of the amount of the tax. When penalties are
18 applicable for failure to file a return and failure to pay
19 the tax due or required on the return, the penalty provision
20 for failure to file ~~shall be~~ is in lieu of the penalty
21 provision for failure to pay the tax due or required on the
22 return except in the case of willful failure to file a return
23 and willfully filing of a false return with intent to evade
24 tax.

25 3. If the amount of the tax as determined by the department
26 is less than the amount paid, the excess shall be refunded
27 with interest after thirty days from the date of payment or
28 the date the return was due to be filed, whichever is the
29 later at the rate ~~of three-fourths of one percent per month~~
30 in effect under section 1 of this Act counting each fraction
31 of a month as an entire month under the rules prescribed by
32 the director. If an overpayment of tax results from a net
33 operating loss or net capital loss which is carried back to
34 a prior year, the overpayment, for purposes of computing
35 interest on refunds, shall be considered as having been made

1 at the close of the taxable year in which the net operating
2 loss or net capital loss occurred or thirty days from the
3 date of the actual payment of the tax, whichever is later.
4 However, when the net operating loss or net capital loss carry
5 back to a prior year eliminates or reduces an underpayment
6 of tax due for an earlier year, the full amount of the
7 underpayment of tax shall bear interest at the rate ~~of three-~~
8 ~~fourths-of-one-percent-per~~ in effect under section 1 of this
9 Act for each month counting each fraction of a month as an
10 entire month from the due date of the tax for the earlier
11 year to the last day of the taxable year in which the net
12 operating loss or net capital loss occurred.

13 Sec. 9. Section 422.28, Code 1981, is amended to read
14 as follows:

15 422.28 REVISION OF TAX. A taxpayer may appeal to the
16 director for revision of the tax, interest or penalties
17 assessed ~~against him~~ at any time within ninety days from the
18 date of the notice of the assessment of tax, additional tax,
19 interest or penalties. The director shall grant a hearing
20 and if, upon the hearing, the director ~~shall-determine~~
21 determines that the tax, interest or penalties are excessive
22 or incorrect, the director shall revise them according to
23 the law and the facts and adjust the computation of the tax,
24 interest or penalties accordingly. The director shall notify
25 the taxpayer by registered mail of the result of the hearing
26 and shall refund to the taxpayer the amount, if any, paid
27 in excess of the tax, interest or penalties found by the
28 director to be due, with interest after sixty days from the
29 date of payment by the taxpayer at the rate ~~of three-fourths~~
30 ~~of-one-percent-per~~ in effect under section 1 of this Act for
31 each month or a fraction of a month. The director may, on
32 his or her own motion at any time, abate any portion of tax,
33 interest or penalties which he the director determines is
34 excessive in amount, or erroneously or illegally assessed.
35 The director shall prepare quarterly reports, which shall

1 be included in the annual statistical reports required under
2 section 422.75, summarizing each case in which an abatement
3 of tax, interest or penalties was made under this section,
4 but ~~the~~ a report shall not disclose the identity of the
5 taxpayer.

6 Sec. 10. Section 422.58, subsection 1, Code 1981, is
7 amended to read as follows:

8 1. If any person fails to file a permit ~~holders~~ holder's
9 monthly tax deposit or a return with the department of revenue
10 on or before the due date, unless it is shown that the failure
11 was due to reasonable cause, there shall be added to the
12 amount required to be shown as tax on the monthly tax deposit
13 or return five percent of the amount of the tax if the failure
14 is for not more than one month, with an additional five percent
15 for each additional month or fraction of a month during which
16 the failure continues, not exceeding twenty-five percent in
17 the aggregate. If any person or permit holder fails to remit
18 at least ninety percent of the tax due with the filing of
19 the monthly tax deposit or return on or before the due date,
20 or pays less than ninety percent of any tax required to be
21 shown on the return, excepting the period between the
22 completion of an examination of the books and records of a
23 taxpayer and the giving of notice to the taxpayer that a tax
24 or additional tax is due, there shall be added to the tax
25 a penalty of five percent of the amount of the tax due, if
26 the failure is for not more than one month, with an additional
27 five percent for each additional month or fraction of a month
28 the failure continues, not exceeding twenty-five percent in
29 the aggregate, unless it is shown that the failure was due
30 to reasonable cause. In case of willful failure to file a
31 return, willful filing of a false return or willful filing
32 of a false or fraudulent return with intent to evade tax,
33 in lieu of the penalty otherwise provided in this subsection,
34 there shall be added to the amount required to be shown as
35 tax on the return fifty percent of the amount of the tax.

1 When penalties are applicable for failure to file a monthly
2 tax deposit or return and failure to pay at least ninety
3 percent of the tax due or required on the monthly tax deposit
4 or return, the penalty provision for failure to file shall
5 be is in lieu of the penalty provision for failure to pay
6 at least ninety percent of the tax due or required on the
7 monthly tax deposit or return. The taxpayer shall also pay
8 interest on the tax or additional tax at the rate ~~of three-~~
9 ~~fourths-of-one-percent-per~~ in effect under section 1 of this
10 Act for each month counting each fraction of a month as an
11 entire month, computed from the date the monthly tax deposit
12 or return was required to be filed. The penalty and interest
13 shall be paid to the department and disposed of in the same
14 manner as other receipts under this division. Unpaid penalties
15 and interest may be enforced in the same manner as the tax
16 imposed by this division.

17 Sec. 11. Section 423.18, subsection 1, Code 1981, is
18 amended to read as follows:

19 1. If a person fails to file a return with the department
20 on or before the due date, unless it is shown that the failure
21 was due to reasonable cause, there shall be added to the
22 amount required to be shown as tax on the return five percent
23 of the amount of the tax if the failure is for not more than
24 one month, with an additional five percent for each additional
25 month or fraction of a month during which the failure
26 continues, not exceeding twenty-five percent in the aggregate.
27 If a person or permit holder fails to remit at least ninety
28 percent of the tax due with the filing of the return on or
29 before the due date, or pays less than ninety percent of any
30 tax required to be shown on the return, excepting the period
31 between the completion of an examination of the books and
32 records of a taxpayer and the giving of notice to the taxpayer
33 that a tax or additional tax is due, there shall be added
34 to the tax a penalty of five percent of the tax due, if the
35 failure is for not more than one month, with an additional

1 five percent for each additional month or fraction of a month
2 during which the failure continues, not exceeding twenty-five
3 percent in the aggregate, unless it is shown that the failure
4 was due to reasonable cause. In case of willful failure to
5 file a return, willfully filing a false return, or willfully
6 filing a false or fraudulent return with intent to evade tax,
7 in lieu of the penalty otherwise provided in this subsection,
8 there shall be added to the amount required to be shown as
9 tax on the return fifty percent of the amount of the tax.
10 When penalties are applicable for failure to file a return
11 and failure to pay at least ninety percent of the tax due
12 or required on the return, the penalty provision for failure
13 to file is in lieu of the penalty provision for failure to
14 pay at ~~last~~ least ninety percent of the tax due or required
15 on the return. The taxpayer shall also pay interest on the
16 tax or additional tax at the rate ~~of three-fourths of one~~
17 ~~percent-per~~ in effect under section 1 of this Act for each
18 month counting each fraction of a month as an entire month,
19 computed from the date the return was required to be filed.
20 The penalty and interest shall be paid to the department and
21 disposed of in the same manner as other receipts under this
22 chapter. Unpaid penalties and interest may be enforced in
23 the same manner as the tax imposed by this chapter.

24 Sec. 12. Section 435.4, Code 1981, is amended to read
25 as follows:

26 435.4 PAYMENT OF TAX. The tax due shall be paid in full
27 and shall accompany the return required to be filed by section
28 435.3. If payment does not accompany the return or payment
29 is not in the amount shown due and payable on the return,
30 the company ~~shall-be~~ is subject to interest at the rate ~~of~~
31 ~~three-fourths of one percent-per~~ in effect under section 1
32 of this Act for each month or fraction thereof on the balance
33 due.

34 Sec. 13. Section 435.6, unnumbered paragraph 1, Code 1981,
35 is amended to read as follows:

1 The department shall have has three years from the time
2 the return was filed or after the return became due, including
3 any extensions of time for filing, whichever time is the
4 later, to audit the return and determine its accuracy. If
5 it is shown by the audit that additional tax is due, interest
6 at the rate ~~of three-fourths of one percent per~~ in effect
7 under section 1 of this Act for each month or fraction thereof
8 shall be added to the additional tax shown to be due.

9 Sec. 14. Section 435.6, unnumbered paragraph 4, Code 1981,
10 is amended to read as follows:

11 If it is shown that an overpayment was made, interest at
12 the rate ~~of three-fourths of one percent per~~ in effect under
13 section 1 of this Act for each month or fraction thereof shall
14 be added to the overpayment with interest commencing sixty
15 days after the date of payment.

16 Sec. 15. Section 450.6, Code 1981, is amended to read
17 as follows:

18 450.6 ACCRUAL OF TAX--MATURITY--EXTENSION OF TIME. The
19 tax hereby imposed shall be for the use of the state, shall
20 accrue by this chapter accrues at the death of the decedent
21 owner, and shall be paid to the department of revenue within
22 twelve months after the death of the decedent owner except
23 when otherwise provided in this chapter. When in the opinion
24 of the director of revenue additional time should be granted
25 for payment to avoid hardship, the director may extend the
26 period to a date not exceeding ten years from the date of
27 death of the decedent. In the case of any such extension
28 the tax shall bear ~~six percent~~ interest at the rate in effect
29 under section 1 of this Act from the expiration of twelve
30 months from the date of the decedent's death.

31 Sec. 16. Section 450.63, subsection 1, Code 1981, is
32 amended to read as follows:

33 1. ~~All taxes imposed by this chapter shall be payable~~
34 ~~to the department of revenue and, except when otherwise~~
35 ~~provided in this chapter, shall be paid within twelve months~~

1 ~~from-the-death-of-the-testator-or-intestate-~~ All taxes not
2 paid within the time prescribed in this chapter ~~shall-be~~ are
3 subject to a penalty as provided in subsection 2 and shall
4 draw interest ~~at-the-rate-of-eight-percent-per-annum~~ thereafter
5 at the rate in effect under section 1 of this Act until paid.

6 Sec. 17. Section 450.94, subsection 3, Code 1981, is
7 amended to read as follows:

8 3. If the amount paid is greater than the correct tax,
9 penalty and interest due, the department shall refund the
10 excess, with interest after sixty days from the date of payment
11 ~~at six-percent-per-annum~~ the rate in effect under section
12 1 of this Act, under the provisions of rules prescribed by
13 the director. However, the director shall not allow a claim
14 for refund or credit that has not been filed with the
15 department within five years after the tax payment upon which
16 a refund or credit is claimed became due, or one year after
17 the tax payment was made, whichever time is the later. A
18 determination by the department of the amount of tax, penalty
19 and interest due, or the amount of refund for excess tax paid,
20 ~~shall-be~~ is final unless the person aggrieved by the
21 determination appeals to the director for a revision of the
22 determination within ninety days from the postmark date of
23 the notice of determination of tax, penalty and interest due
24 or refund owing. The director shall grant a hearing, and
25 upon the hearing the director shall determine the correct
26 tax, penalty and interest or refund due, and notify the
27 appellant of the decision by certified mail. The decision
28 of the director ~~shall-be~~ is final unless the appellant seeks
29 judicial review of the director's decision under section
30 450.59 within sixty days after the postmark date of the notice
31 of the director's decision.

32 Sec. 18. Section 450A.9, Code 1981, is amended to read
33 as follows:

34 450A.9 DELINQUENT RETURNS. If the tax imposed by this
35 chapter is not paid within the time prescribed by law, the

1 ~~tax shall-be-deemed~~ is delinquent and shall draw interest
2 ~~at-the-rate-of-eight-percent-per-annum~~ thereafter at the rate
3 in effect under section 1 of this Act until paid.

4 EXPLANATION

5 This bill relates to the rate of interest payable on obli-
6 gations arising under the state's taxing laws. The 1979 gov-
7 ernor's economy committee recommended that the interest rate
8 payable on delinquent taxes be adjusted annually.

9 Section 1 establishes the rate of interest for interest-
10 bearing obligations which arise under title XVI of the Code,
11 except for those in which a different rate is specifically
12 stated. The rate in effect under the section would be the
13 rate earned on overpayments as well as that payable on
14 delinquencies.

15 The rate of interest to be in effect during a calendar
16 year is two percent less than the twelve-month average of
17 prime commercial bank rates as determined by the federal
18 reserve system. The director of revenue would calculate in
19 October of each year the rate to take effect January 1. Once
20 a rate has taken effect, the rate would not change until the
21 average of the prime rates changes by at least one percentage
22 point.

23 Sections 2 through 17 of the bill amend various sections
24 of the tax code as they apply to state tax revenues to delete
25 the numerous declarations of the interest rate, and to insert
26 in lieu thereof a reference to the rate in effect under section
27 1 of the bill. In most cases, the existing rate is three-
28 fourths of a percent per month. However, the present rates
29 under chapters 450 and 450A of the Code, relating to
30 inheritance taxes and generation skipping transfer taxes,
31 are less than 9% per year. This bill makes the interest rate
32 under section 1 applicable to those chapters as well, in
33 keeping with the general recommendation of the economy
34 committee.

35 This bill does not impose any obligation to pay interest

1 and does not determine when interest begins to accrue.

2 The bill will take effect July 1 following its enactment.

3

4

5

SENATE AMENDMENT TO HOUSE FILE 734

H-3962

1 Amend House File 734 as follows:

2 1. Page 1, by striking line 3 through page 2,
3 line 2, and inserting in lieu thereof the following:

4 "NEW SECTION. INTEREST RATE. Except where a
5 different rate of interest is stated in a provision
6 of this title, the rate of interest on interest-bearing
7 obligations arising under this title shall be one
8 percent per month."

H-3962 FILED MAY 4, 1981

RECEIVED FROM THE SENATE

House referred to comcom 5/6/81 (p. 1692)

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FISCAL NOTE
House File 734
Requested by Representative Crawford
January 11, 1981

In compliance with a written request there is hereby submitted a Fiscal Note for H. F. 734 pursuant to Joint Rule 16.

H.F. 734 changes the interest rate on interest bearing obligations arising under the state tax laws except for those taxes in which a different rate is specifically stated (property tax). The proposed interest rate would be 2% less than the twelve-month average of prime commercial bank rates as determined by the federal reserve system. The current annual interest rate on tax obligations is 9% with the exception of obligations under the inheritance tax.

The fiscal impact of the change in interest rates is not known. Since the rates apply to both taxes owed to the state and to refunds due from the state, it is uncertain whether there would be a net gain or loss in revenue in general.

Source: Dept. of Revenue
FILED MARCH 12, 1981

BY GERRY D. RANKIN
Legislative Fiscal Bureau

FISCAL NOTE
Amendment H-3263 to House File 734
Requested by Representative Conlon
March 12, 1981

In compliance with a written request there is hereby submitted a Fiscal Note for Amendment H-3263 to H. F. 734 pursuant to Joint Rule 16.

H.F. 734 as amended by H-3263 would insert language requiring that if any tax payer failed to remit at least 90% of the tax due with the filing of the return on or before the due date or pays less than 90% of total tax due as shown on the return, that a penalty be added to the tax due. Currently, the code requires all tax due to be remitted or else a penalty is assessed.

The amendment would eliminate the assessment collection of penalties on future taxes when at least 90% of the tax due is paid. The amount of such collections is not known.

Source: Dept. of Revenue
FILED MARCH 12, 1981

BY GERRY D. RANKIN
Legislative Fiscal Bureau

HOUSE FILE 734

H-3263

1 Amend House File 734 as follows:

2 1. Page 2, line 21, by inserting after the word
3 "remit" the words "at least ninety percent of".

4 2. Page 2, lines 22 and 23, by striking the words
5 "fails to pay any amount of the" and inserting in
6 lieu thereof the words "fails-to-pay pays less than
7 ninety percent of any amount-of-the".

8 3. Page 4, line 32, by inserting after the word
9 "remit" the words "at least ninety percent of".

10 4. Page 4, lines 33 and 34, by striking the words
11 "fails to pay any amount" and inserting in lieu thereof
12 the words "fails-to-pay-any-amount pays less than
13 ninety percent".

14 5. Page 7, line 3, by inserting after the word
15 "remit" the words "at least ninety percent of".

16 6. Page 7, lines 4 and 5, by striking the words
17 "fails to pay any amount" and inserting in lieu thereof
18 the words "fails-to-pay-any-amount pays less than
19 ninety percent".

20 7. Page 11, by inserting after line 33 the follow-
21 ing:

22 "Sec. ____ . Section 435.5, Code 1981, is amended
23 to read as follows:

24 435.5 PENALTY. In case of failure to file a
25 return with the department on or before the due date,
26 unless it is shown that the failure was due to
27 reasonable cause and not due to willful neglect, there
28 shall be added to the amount required to be shown
29 as tax on the return five percent of the amount of
30 tax if the failure is for not more than one month,
31 with an additional five percent for each additional
32 month or fraction thereof during which the failure
33 continues, not exceeding twenty-five percent in the
34 aggregate. If any person fails to remit at least
35 ninety percent of the tax due with the filing of the
36 return on or before the due date, or fails-to-pay
37 pays less than ninety percent of the total amount
38 of the tax due as shown on the return, unless it is
39 shown that the failure was due to reasonable cause,
40 there shall be added to the tax a penalty of five
41 percent of the tax due, if the failure is for not
42 more than one month, with an additional five percent
43 for each additional month or fraction of a month
44 during which the failure continues, not exceeding
45 twenty-five percent in the aggregate. In case of
46 willful failure to file a return with intent to evade
47 tax, or in case of willfully filing a false return
48 with intent to evade tax, in lieu of the penalty above
49 provided, there shall be added to the amount required
50 to be shown as tax on the return fifty percent of

1 the amount of the tax. When penalties are applicable
2 for failure to file a return and failure to pay the
3 tax due or required on the return, the penalty
4 provision for failure to file shall-be is in lieu
5 of the penalty provision for failure to pay the tax
6 due or required on the return except in the case of
7 willful failure to file a return and willfully filing
8 of a false return with intent to evade tax."

9 8. Page 13, by inserting after line 5 the follow-
10 ing:

11 "Sec. ____ Section 450.63, subsection 2, Code
12 1981, is amended to read as follows:

13 2. If a person liable for the payment of tax as
14 stated in section 450.5 fails to file a return with
15 the department of revenue on or before the due date,
16 unless it is shown that the failure was due to
17 reasonable cause, there shall be added to the amount
18 of tax required to be shown as tax due on the return
19 five percent of the amount of the tax, if the failure
20 is for not more than one month, with an additional
21 five percent for each additional month or fraction
22 of a month during which the failure continues, not
23 exceeding twenty-five percent in the aggregate. If
24 a person fails to remit at least ninety percent of
25 the tax due with the filing of the return on or before
26 the due date or ~~fails to pay~~ pays less than ninety
27 percent of any amount of tax required to be shown
28 on the return, unless it is shown that the failure
29 was due to reasonable cause, there shall be added
30 to the tax a penalty of five percent of the amount
31 of the tax due, if the failure is for not more than
32 one month, with an additional five percent for each
33 additional month or fraction of a month during which
34 the failure continues, not exceeding twenty-five
35 percent in the aggregate. When penalties are
36 applicable for failure to file a return and failure
37 to pay the tax due or required to be shown on the
38 return, the penalty provision for failure to file
39 shall-be is in lieu of the penalty provision for
40 failure to pay the tax due or required to be shown
41 on the return."

42 9. By numbering, renumbering, and correcting
43 internal references as required by this amendment.

44 10. Title page, line 1, by inserting after the
45 word "Act" the words "relating to the penalty for
46 failure to pay or remit ninety percent of tax for
47 state motor vehicle fuel taxes, freight line and
48 equipment car mileage taxes, income taxes, franchise
49 taxes, inheritance and estate taxes, local hotel and
50 motel taxes, and generation skipping transfer taxes

Page Three

1 and".

BY CONLON of Muscatine
HOFFMANN of Muscatine
SCHNEKLOTH of Scott
NORLAND of Worth
CRAWFORD of Story
BRANDT of Black Hawk

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 734

To ~~the~~ President of the Senate and the Speaker of the House of Representatives:

We, ~~the~~ undersigned members of the conference committee appointed to resolve the difference between the Senate and the House of Representatives on House File 734, a bill for an Act establishing the rate of interest payable on delinquent taxes owed to the state, respectfully make the following report:

1. That the Senate recede from its amendment, H-3962 to House File 734 as passed by the House.

2. That House File 734 as passed by the House be amended as follows:

- a. Page 1, line 11, by striking the words "one-tenth of".
- b. Page 4, line 23, by inserting before the word "return" the words "monthly deposit form or quarterly".
- c. Page 4, line 27, by inserting before the word "return" the words "monthly deposit form or quarterly".
- d. Page 4, line 33, by inserting before the word "return" the words "monthly deposit form or quarterly".
- e. Page 4, line 35, by inserting before the word "return" the words "monthly deposit form or quarterly".
- f. Page 5, line 7, by inserting before the word "return" the words "monthly deposit form or quarterly".
- g. Page 5, line 8, by inserting before the word "return" the words "monthly deposit form or quarterly".
- h. Page 5, line 10, by inserting before the word "return" the words "monthly deposit form or quarterly".
- i. Page 5, line 14, by inserting before the word "return" the words "monthly deposit form or quarterly".
- j. Amend the title, line 1, by inserting after the word

"Act" the words "relating to taxes owed to the state, and providing for penalties and interest for delinquent monthly withholding tax payments and".

ON THE PART OF THE HOUSE:

HUGO SCHNEKLOTH, Chair
WALTER CONLON
DOUGLAS RITSEMA
DIANE BRANDT
BILL DIELEMAN

House adopted 5/21/81 (p. 2125)

ON THE PART OF THE SENATE:

ROLF V. CRAFT, Chair
JACK W. HESTER
DAVID M. READINGER
NORMAN RODGERS
BASS VAN GILST

Senate adopted 5/21/81 (p. 1779)

HOUSE FILE 734

AN ACT

RELATING TO TAXES OWED TO THE STATE, AND PROVIDING FOR PENALTIES AND INTEREST FOR DELINQUENT MONTHLY WITHHOLDING TAX PAYMENTS AND ESTABLISHING THE RATE OF INTEREST PAYABLE ON DELINQUENT TAXES OWED TO THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 421, Code 1981, is amended by adding the following new section:

NEW SECTION. INTEREST RATE.

1. Except where a different rate of interest is stated in a provision of this title, the rate of interest on interest-bearing obligations arising under this title shall be the rate of interest in effect under this section.

2. The rate of interest that shall be in effect during a calendar year shall be the rate which is two percentage points less than the numerical average, rounded to the nearest one percent, of the respective prime rates for each of the months in the twelve-month period that ends September 30 of the previous calendar year. The rate of interest established by this subsection takes effect January 1, and applies to any amount which is due or becomes payable on or after that date.

3. Notwithstanding contrary provisions of subsection 2, the rate of interest that is in effect during a calendar year shall also be the rate of interest to be in effect for the following calendar year, unless the rate of interest as calculated under subsection 2 is at least one percentage point higher or lower than the rate then in effect.

4. In the event interest accrues or is calculated on a monthly basis, the rate of interest for each month shall be one-twelfth, rounded to the nearest one-tenth of one percent, of the rate specified in subsection 2.

5. As used in subsection 3, the term "prime rate" means the prime rate charged by banks on short-term business loans, as determined by the board of governors of the federal reserve system and published in the federal reserve bulletin.

6. In October of each year the director shall cause an advisory notice to be published in the Iowa administrative bulletin and in a newspaper of general circulation in this state, stating the rate of interest to be in effect on or after January 1 of the following year, as established by this section. The calculation and publication of the rate of interest by the director is exempt from chapter 17A.

Sec. 2. Section 324.64, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director may, on his or her own motion at any time, abate any portion of tax, interest or penalties which is determined to be excessive in amount or erroneously or illegally assessed.

Sec. 3. Section 324.65, Code 1981, is amended to read as follows:

324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL TAXES. If a licensee or other person fails to file a required report with the appropriate state agency on or before the due date, unless it is shown that the failure was due to reasonable cause there shall be added to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit the tax due with the filing of the return on or before the due date or fails to pay any amount of the tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent

for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. The taxpayer shall also pay interest on the tax or additional tax at the rate ~~of three-fourths of one percent per month in effect under section 1 of this Act~~ counting each fraction of a month as an entire month, computed from the date the return was required to be filed. The appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of fifty percent of the tax due. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty for failure to pay the tax due or required on the return, except in the case of a deliberate attempt on the part of the licensee or other person to evade payment of fuel taxes. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, shall be subject to a penalty of ten dollars if the report is not timely filed with the appropriate state agency.

Sec. 4. Section 422.16, subsection 9, Code 1981, is amended to read as follows:

9. The amount of any overpayment of the individual income tax liability of the employee taxpayer, nonresident, or other person which may result from the withholding and payment of withheld tax by the employer or withholding agent to the department under subsections 1 and 12 ~~hereof~~, as compared to the individual income tax liability of the employee

taxpayer, nonresident, or other person properly and correctly determined under the provisions of section 422.4, to and including section 422.25, may be credited against any income tax or installment thereof then due the state of Iowa and any balance of one dollar or more shall be refunded to the employee taxpayer, nonresident or other person with interest at the rate ~~of three-fourths of one percent per in effect under section 1 of this Act for each~~ month or fraction of a month, ~~such~~ the interest to begin to accrue thirty days after the date the return was due to be filed or was filed, whichever is the later date. Amounts less than one dollar shall be refunded to the taxpayer, nonresident, or other person only upon written application, in accordance with section 422.23, and only if ~~such~~ the application is filed within twelve months after the due date of the return. Refunds in the amount of one dollar or more provided for by this subsection shall be paid by the treasurer of state by means of warrants drawn by the comptroller at the direction of the director, or an authorized employee of the department, and the taxpayer's return of income shall constitute a claim for refund for this purpose, except in respect to amounts of less than one dollar. There is ~~hereby~~ appropriated, out of any funds in the state treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this subsection.

Sec. 5. Section 422.16, subsection 10, paragraph b, Code 1981, is amended to read as follows:

b. Any employer or withholding agent required under ~~the provisions of~~ this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a monthly deposit form or quarterly return for the withholding of tax with the department ~~of revenue~~ on or before the due date, unless it is shown that the failure was due to reasonable cause, ~~shall be~~ is subject to a penalty determined by adding to the amount required to be shown as tax due on the monthly deposit form or quarterly return five percent of the amount of the tax if the failure is for not more than one month.

with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit the tax due with the filing of the monthly deposit form or quarterly return on or before the due date, or fails to pay any amount of any tax required to be shown on the monthly deposit form or quarterly return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a monthly deposit form or quarterly return and failure to pay the tax due or required on the monthly deposit form or quarterly return, the penalty provision for failure to file ~~shall be~~ is in lieu of the penalty provision for failure to pay the tax due or required on the monthly deposit form or quarterly return. The taxpayer shall also pay interest on the tax or additional tax at the rate of ~~three-fourths-of-one-percent-per~~ in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or quarterly return was required to be filed. The penalty and interest ~~shall~~ become a part of the tax due from the withholding agent.

Sec. 6. Section 422.16, subsection 11, paragraph e, Code 1981, is amended to read as follows:

e. Any amount of tax paid on a declaration of estimated tax shall be a credit against the amount of tax found payable on a final, completed return, as provided in subsection 9 hereof, relating to the credit for the tax withheld against the tax found payable on a return properly and correctly prepared under the provisions of section 422.5, to and including section 422.25, and any overpayment of one dollar

or more shall be refunded to the taxpayer and ~~such the~~ return shall constitute a claim for refund for this purpose. Amounts less than one dollar shall be refunded to the taxpayer only upon written application in accordance with section 422.74, but only if ~~such the~~ application is filed within twelve months after the due date for the return. The method provided by the Internal Revenue Code of 1954 for determining what ~~shall be~~ is applicable to the addition to tax for underpayment of the tax payable ~~shall-apply~~ applies to persons required to file declarations and make payments of estimated tax under ~~the-provisions-of~~ this section except the amount to be added to the tax for underpayment of estimated tax shall be an amount determined at the rate of ~~three-fourths-of-one-percent~~ per-month in effect under section 1 of this Act. This addition to tax specified for underpayment of the tax payable ~~shall~~ is not be subject to waiver provisions relating to reasonable cause. Underpayment of estimated tax shall be determined in the same manner as provided under ~~the-provisions-of~~ the Internal Revenue Code of 1954 and the exceptions therein ~~provided-shall~~ also apply.

Sec. 7. Section 422.24, subsection 2, Code 1981, is amended to read as follows:

2. When, at the request of the taxpayer, the time for filing the return is extended, interest at the rate of ~~three-fourths-of-one-percent-per~~ in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, on the total tax due, from the time when the return was required to be filed to the time of payment, shall be added and paid.

Sec. 8. Section 422.25, subsections 2 and 3, Code 1981, are amended to read as follows:

2. In addition to the tax or additional tax as determined by the department under ~~the-provisions-of~~ subsection 1 of ~~this-section~~, the taxpayer shall pay interest on the tax or additional tax at the rate of ~~three-fourths-of-one-percent~~ per in effect under section 1 of this Act for each month

counting each fraction of a month as an entire month, computed from the date the return was required to be filed. In case of failure to file a return with the department on or before the due date (determined with regard to any extension of time for filing), unless it is shown that the failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit the tax due with the filing of the return on or before the due date, or fails to pay any amount of any tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty ~~above~~ otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file ~~shall be~~ is in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

3. If the amount of the tax as determined by the department is less than the amount paid, the excess shall be refunded with interest after thirty days from the date of payment or

the date the return was due to be filed, whichever is the later at the rate ~~of three-fourths of one percent per month~~ in effect under section 1 of this Act counting each fraction of a month as an entire month under the rules prescribed by the director. If an overpayment of tax results from a net operating loss or net capital loss which is carried back to a prior year, the overpayment, for purposes of computing interest on refunds, shall be considered as having been made at the close of the taxable year in which the net operating loss or net capital loss occurred or thirty days from the date of the actual payment of the tax, whichever is later. However, when the net operating loss or net capital loss carry back to a prior year eliminates or reduces an underpayment of tax due for an earlier year, the full amount of the underpayment of tax shall bear interest at the rate ~~of three-fourths of one percent per~~ in effect under section 1 of this Act for each month counting each fraction of a month as an entire month from the due date of the tax for the earlier year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

Sec. 9. Section 422.28, Code 1981, is amended to read as follows:

422.28 REVISION OF TAX. A taxpayer may appeal to the director for revision of the tax, interest or penalties assessed ~~against him~~ at any time within ninety days from the date of the notice of the assessment of tax, additional tax, interest or penalties. The director shall grant a hearing and if, upon the hearing, the director ~~shall determine~~ determines that the tax, interest or penalties are excessive or incorrect, the director shall revise them according to the law and the facts and adjust the computation of the tax, interest or penalties accordingly. The director shall notify the taxpayer by registered mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest or penalties found by the director to be due, with interest after sixty days from the

date of payment by the taxpayer at the rate ~~of three-fourths of one percent per~~ in effect under section 1 of this Act for each month or a fraction of a month. The director may, on his or her own motion at any time, abate any portion of tax, interest or penalties which ~~he~~ the director determines is excessive in amount, or erroneously or illegally assessed. The director shall prepare quarterly reports, which shall be included in the annual statistical reports required under section 422.75, summarizing each case in which an abatement of tax, interest or penalties was made under this section, but ~~the~~ a report shall not disclose the identity of the taxpayer.

Sec. 10. Section 422.58, subsection 1, Code 1981, is amended to read as follows:

1. If any person fails to file a permit ~~holders~~ holder's monthly tax deposit or a return with the department of revenue on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly tax deposit or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly tax deposit or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due

to reasonable cause. In case of willful failure to file a return, willful filing of a false return or willful filing of a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly tax deposit or return and failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return, the penalty provision for failure to file ~~shall~~ be ~~is~~ in lieu of the penalty provision for failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return. The taxpayer shall also pay interest on the tax or additional tax at the rate ~~of three-fourths of one percent per~~ in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the monthly tax deposit or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

Sec. 11. Section 423.18, subsection 1, Code 1981, is amended to read as follows:

1. If a person fails to file a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period

between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a return, willfully filing a false return, or willfully filing a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a return and failure to pay at least ninety percent of the tax due or required on the return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay at ~~least~~ least ninety percent of the tax due or required on the return. The taxpayer shall also pay interest on the tax or additional tax at the rate ~~of three-fourths of one percent per in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed.~~ The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter.

Sec. 12. Section 435.4, Code 1981, is amended to read as follows:

435.4 PAYMENT OF TAX. The tax due shall be paid in full and shall accompany the return required to be filed by section 435.3. If payment does not accompany the return or payment is not in the amount shown due and payable on the return, the company ~~shall be~~ is subject to interest at the rate of ~~three-fourths of one percent per in effect under section 1~~

~~of this Act for each month or fraction thereof on the balance due.~~

Sec. 13. Section 435.6, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The department ~~shall have~~ has three years from the time the return was filed or after the return became due, including any extensions of time for filing, whichever time is the later, to audit the return and determine its accuracy. If it is shown by the audit that additional tax is due, interest at the rate ~~of three-fourths of one percent per in effect under section 1 of this Act for each month or fraction thereof~~ shall be added to the additional tax shown to be due.

Sec. 14. Section 435.6, unnumbered paragraph 4, Code 1981, is amended to read as follows:

If it is shown that an overpayment was made, interest at the rate ~~of three-fourths of one percent per in effect under section 1 of this Act for each month or fraction thereof~~ shall be added to the overpayment with interest commencing sixty days after the date of payment.

Sec. 15. Section 450.6, Code 1981, is amended to read as follows:

450.6 ACCRUAL OF TAX--MATURITY--EXTENSION OF TIME. The tax hereby imposed ~~shall be for the use of the state, shall accrue by this chapter~~ accrues at the death of the decedent owner, and shall be paid to the department of revenue within twelve months after the death of the decedent owner except when otherwise provided in this chapter. When in the opinion of the director of revenue additional time should be granted for payment to avoid hardship, the director may extend the period to a date not exceeding ten years from the date of death of the decedent. In the case of any such extension the tax shall bear ~~six percent~~ six percent interest at the rate in effect under section 1 of this Act from the expiration of twelve months from the date of the decedent's death.

Sec. 16. Section 450.63, subsection 1, Code 1981, is amended to read as follows:

~~1. All taxes imposed by this chapter shall be payable to the department of revenue and except when otherwise provided in this chapter, shall be paid within twelve months from the death of the testator or intestate. All taxes not paid within the time prescribed in this chapter shall be~~ are subject to a penalty as provided in subsection 2 and shall draw interest ~~at the rate of eight percent per annum~~ thereafter at the rate in effect under section 1 of this Act until paid.

Sec. 17. Section 450.94, subsection 3, Code 1981, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty and interest due, the department shall refund the excess, with interest after sixty days from the date of payment ~~at six percent per annum~~ the rate in effect under section 1 of this Act, under the provisions of rules prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax, penalty and interest due, or the amount of refund for excess tax paid, ~~shall be~~ is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ninety days from the postmark date of the notice of determination of tax, penalty and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by certified mail. The decision of the director ~~shall be~~ is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

Sec. 18. Section 450A.9, Code 1981, is amended to read as follows:

450A.9 DELINQUENT RETURNS. If the tax imposed by this chapter is not paid within the time prescribed by law, the tax shall be deemed is delinquent and shall draw interest ~~at the rate of eight percent per annum~~ thereafter at the rate in effect under section 1 of this Act until paid.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 734, Sixty-ninth General Assembly.

FAT H. HARPER
Chief Clerk of the House
Approved June 13, 1981

ROBERT D. RAY
Governor